

Implementing Legal Interventions for the Control of Tuberculosis

Statutes, Rules and Regulations

Below is an excerpt from Colorado statute **25-4-507** which gives the health officer the power to determine if an isolation order is to be served:

1. Isolation Order

According to Colorado statute **25-4-507**:

- (1)(a) Whenever a health officer determines that isolation of a person in a particular Tuberculosis Case is necessary for the preservation and protection of the public health, the health officer shall make an isolation order in writing.
- (b) When a health officer is determining whether to issue an isolation order for a person, the health officer shall consider, but is not limited to, the following factors:
 - (I) Whether the person has active tuberculosis;
 - (II) If the person is violating the rules promulgated by the Board of Health or the orders issued by the appropriate health officer to comply with rules or orders; and
 - (III) Whether the person presents a substantial risk of exposing other persons to an imminent danger of infection.
- (c) All isolation orders shall set forth the name of the person to be isolated and the initial period, not to exceed six months, during which the order shall remain effective, the place of isolation, and such terms and conditions as may be immediately necessary to protect the public health. A copy of such order shall be served upon the person. The person shall be reexamined at the time the initial order expires, to ascertain whether or not the tuberculosis continues to be infectious. When it has been medically determined that the person no longer has active tuberculosis, the person shall be relieved from all further liability or duty imposed by this part 5, and the order shall be rescinded.

In general, CDPHE recommends that an isolation order be served on the following:

- Persons with pulmonary and/or laryngeal disease who are smear positive.
- Persons with pulmonary and/or laryngeal disease who are smear negative and are actively coughing and who are starting medications for active TB disease.
- Persons with pulmonary and/or laryngeal disease (smear negative or positive) who work in an occupation in which they have direct contact with students in schools, provide personal care to children in day care facilities, provide personal care to persons confined to health care or residential care facilities, or who provide home health care.
- Persons with pulmonary and/or laryngeal disease (smear negative or positive) and are currently enrolled in school or a daycare facility.

It is essential that the tuberculosis isolation order be reviewed and discussed in the persons primary language, utilizing an interpreter if needed.

Guidance on the use of the isolation order is limited because frequently the need for an isolation order will be decided on a case-by-case basis. CDPHE is available for consultation on the use of an isolation order.

The CDPHE TB program may provide reimbursement for isolation services. Please contact TB program staff prior to setting up alternative housing for isolation purposes.

2. Termination of Tuberculosis Isolation Order:

When it has been medically determined that the person is no longer infectious the person shall be served a Termination of Tuberculosis Isolation Order. It is essential that the termination of tuberculosis isolation order be reviewed and discussed in the persons primary language, utilizing an interpreter if needed.

3. Tuberculosis Treatment Contract:

Each patient with suspected or verified TB disease that is started on medication should sign a Tuberculosis Treatment Contract. This contract will not only serve to outline the patient's responsibilities with regard to the treatment plan, but will also ensure that TB programs can provide proper documentation should legal interventions become necessary. It is essential that the Treatment Contract be reviewed and discussed in the persons primary language, utilizing an interpreter if needed.

4. Warning Letter for not receiving Treatment for Active TB Disease:

The warning notice is a written letter issued by the individual or agency responsible for TB control where the person resides. It should be sent by certified mail and/or be hand delivered to the patient **after one missed Directly Observed Therapy (DOT) dose (not previously arranged)**. It is essential that the warning notice be reviewed and discussed in the persons primary language, utilizing an interpreter if needed.

According to State of Colorado Rules and Regulations 6 CCR 1009-1, Regulation 4-H, CDPHE should be notified if a person misses one DOT dose (not previously arranged).

5. Letter Ordering Treatment for Active TB:

This letter should be sent certified mail and/or be hand delivered to the patient if the patient fails to respond to the warning notice described in number 4. This letter references that a court order will be requested if the person fails to respond. It is essential that this letter ordering treatment for active TB be reviewed and discussed in the persons primary language, utilizing an interpreter if needed.

6. Warning Letter for Contact Evaluation:

This letter should be sent certified mail and/or be hand delivered to persons identified as having had exposure to an active case of TB who have failed to respond to requests that they be evaluated. It is essential that this letter ordering an evaluation of a contact to an active case of TB be reviewed and discussed in the persons primary language, utilizing an interpreter if needed.

Patients' Rights and Due Process

Patients generally have the right to refuse to follow professional medical advice. Those with infectious TB disease, however, may lose the right to refuse such advice if health officials believe these persons are putting the public at risk for infection. As stated previously, state governments have the legal authority to enact laws regarding infectious persons, and it is incumbent upon the TB program staff to have a working knowledge of these laws. Again, the program should exhaust all alternatives and document all efforts to help ensure adherence prior to implementing legal interventions.

When implementing legal interventions, patients' rights must be honored in keeping with the constitutional principle of due process. In the event of a court hearing, the patient should be afforded the following:

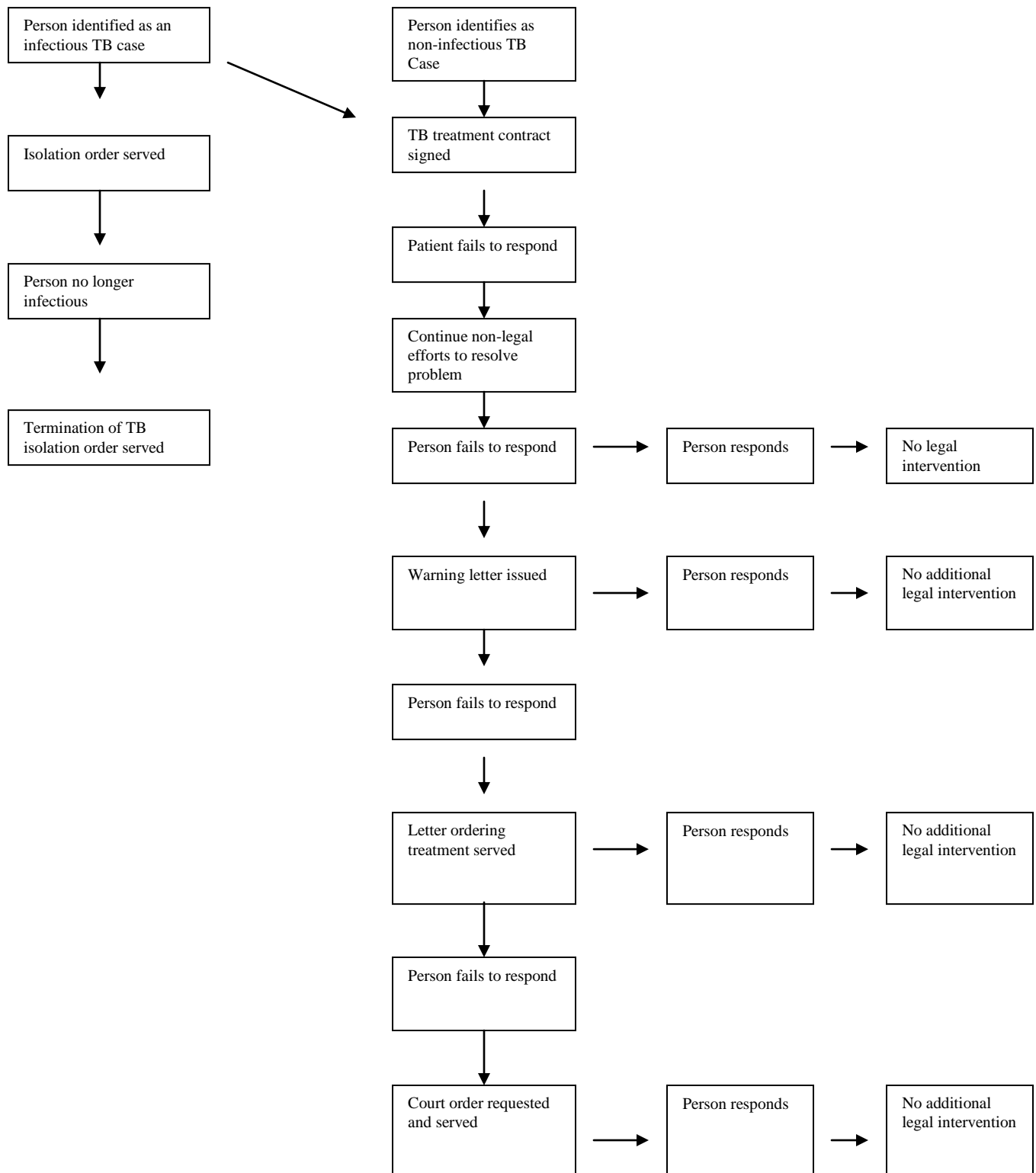
1. Ample written notice prior to a court hearing, detailing the grounds and underlying facts.
2. The right to counsel and, if indigent, appointed counsel.
3. The right to be present at the hearing and to present and cross-examine witnesses.

4. The standard of proof to be by clear, cogent and convincing evidence.
5. The right to a verbatim transcript of the proceedings for purposes of appeal.

In addition, all written correspondence with the patient – including **isolation orders** and **warning notices** – should be explained in the language the patient understands.

When implemented, legal interventions should progress in increments from least to most restrictive to the patient, at all times being conducted in the least restrictive environment possible. This means implementing legal interventions in a way that minimally limits an individual's activities while it simultaneously ensures appropriate treatment and care of the patient, so that the risk to the public is balanced with the patient's right to due process. The flow chart below illustrates the implementation of legal interventions for the TB outpatient.

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Case Management

Each patient with suspected or verified TB disease should be assigned a case manager, a TB program employee who takes primary responsibility for ensuring the patient's progression toward cure. The case manager plays an important role in monitoring the patient's adherence to treatment, and should consult with other health care workers in the agency to identify and remove barriers to adherence. This includes removing language and cultural barriers, offering incentives and enablers, and recruiting the assistance of various social and support services.

Incentives and Enablers

Incentives and enablers are used widely to encourage and assist patients to keep clinic and DOT appointments. They should be specific to the patient's needs, and, when used in concert with proper case management, they promote successful treatment outcomes.

Incentives raise the priority of TB treatment by rewarding patients who adhere to therapy. Depending on the situation, incentives may range from food vouchers, to clothing, to housing homeless patients, to offering "special" items such as a toy to a child.

Enablers are services or conditions that help the patient adhere to therapy. They range from minor services such as providing transportation to the clinic, to paying the patient's rent or mortgage while hospitalized or otherwise unable to work.

The CDPHE TB program may provide reimbursement for incentives and enablers. Each request for reimbursement is reviewed on a case-by-case basis.